

Wichita, Kansas. After receiving Dr. Jansson's report, the Administrative Law Judge entered the preliminary hearing Order that is the subject of this appeal which denied claimant's request for payment of outstanding medical expenses and ongoing medical treatment. The Administrative Law Judge found that claimant's May 19, 1995, work-related accident did not aggravate or accelerate his preexisting right knee condition necessitating a total knee replacement.

On the date of claimant's accident, May 19, 1995, he was employed as a high school track coach and teacher for the respondent. He was unloading first-aid supplies and track equipment when he stepped off the bus at a track meet and felt a pop in his right knee. The knee immediately began to swell and continued to be symptomatic. The respondent first provided medical treatment for the injury with Gary L. Harbin, M.D., in Salina, Kansas. Dr. Harbin performed a right knee arthroscopy on August 29, 1995. Previous to this surgery, claimant had surgeries on his right knee in 1963 and 1989.

Claimant's knee remained symptomatic and respondent's insurance carrier eventually referred him to the Hays Orthopaedic Clinic, P.A., where he was treated by orthopedic surgeon Gregory A. Woods, M.D. Claimant was first seen at the clinic on February 6, 1996. At that time, claimant complained of stiffness and pain with swelling of the right knee. Claimant was provided conservative treatment with medication and steroid injections without any considerable relief. Finally, on June 5, 1996, Dr. Woods performed a total right knee replacement arthroplasty.

Claimant testified that following the 1989 arthroscopy surgery on his right knee, he remained asymptomatic until the May 19, 1995, incident. During this period, claimant testified he was capable of officiating high school basketball games, demonstrating track techniques, and riding horses. Following this accident, claimant testified he was unable to perform any of those activities. At the preliminary hearing, claimant admitted into evidence a medical note signed by Dr. Woods, the surgeon who performed the right knee replacement. The medical note dated December 10, 1996, referred to the claimant and stated "a work related injury did contribute to his need for a total knee replacement."

As a result of Dr. Jansson's independent medical examination, he reported that the May 19, 1995, incident did not aggravate or accelerate claimant's preexisting condition and did not necessitate the total knee replacement. However, Dr. Jansson went on to express an opinion that at least 95 percent of claimant's problem was his preexisting chronic anterior cruciate ligament deficient knee with long-term arthritis and perhaps 5 percent exacerbation of the painful joint surfaces when claimant stepped off the bus on May 19, 1995. Dr. Jansson went on to express his opinion that the "episode of stepping off the bus was just more or less the straw that broke the camel's back and that this is where he began having more significant clinical symptoms, bad enough that he ultimately decided to have the knee replacement done."

The rule of law in Kansas is well established that when a work-related accident aggravates or accelerates a preexisting condition, the accidental injury is compensable. See Claphan v. Great Bend Manor, 5 Kan. App. 2d 47, 611 P.2d 180, *rev. denied* 228 Kan. 806 (1980). The Appeals Board finds that the opinions of both Dr. Woods and Dr. Jansson are persuasive that, at the minimum, the May 19, 1995, work-related accident aggravated claimant's chronic anterior cruciate ligament deficient right knee with long-term arthritis, making the knee symptomatic and accelerating claimant's need for a total knee replacement. Therefore, the Appeals Board concludes that claimant's need for a total knee replacement arose out of and in the course of his employment with the respondent.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order of Administrative Law Judge Bruce E. Moore should be, and hereby is, reversed and the case is remanded to the Administrative Law Judge for findings in regard to claimant's request for preliminary benefits consistent with this Order.

IT IS SO ORDERED.

Dated this ____ day of July 1997.

BOARD MEMBER

c: Russell B. Cranmer, Wichita, KS
James M. McVay, Great Bend, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director